



OLR RESEARCH REPORT

February 1, 2013

2013-R-0101

STATES THAT REQUIRE A PERMIT OR OTHER CREDENTIAL TO BUY LONG GUNS

By: Veronica Rose, Chief Analyst

You asked us to identify states that require a permit, license, or other credential to acquire long guns (rifles and shotguns) and summarize the main laws governing the credentials.

SUMMARY

Four states require a person to have a permit or other credential to buy long guns: Hawaii, Illinois, Massachusetts, and New Jersey.

Generally, anyone acquiring a long gun in Hawaii must have a permit issued by a county police chief. Permit applicants must complete an application and sign a waiver authorizing access to their mental health records, if any, solely for determining their qualifications to possess firearms. They must be at least age 21 and pass a background check, including a National Instant Criminal Background Check System (NICS) check, and meet other criteria specified in law. The permit is valid for one year and is revocable for cause.

With exceptions, anyone acquiring a long gun in Illinois must have a state-issued Firearm Owner's Identification (FOID) card. Applicants must be at least age 18 and meet other criteria specified in law. The card costs \$10 and is valid for 10 years. It allows unlimited long gun purchases.

With some exceptions, Massachusetts requires anyone who buys or otherwise acquires a long gun to have a firearm identification (FID) card or license. The FID card cost \$100, as does the license. Applicants must be found suitable for a license by the police chief (or State Police, where applicable), pass state and national criminal history record checks, and meet other criteria. License applicants must be at least age 18 and FID card applicants must be at least age 15. The license is valid for up to six years; the FID card, for six years.

New Jersey requires anyone, except a gun dealer, acquiring a long gun to have and present a firearms purchaser identification card (FPIC) along with a signed certification attesting to his or her eligibility to acquire firearms. Applicants must be at least age 18, pass state and national criminal history record checks, and meet other criteria in law. The FPIC card costs \$5 and allows unlimited long gun purchases. It is valid so long as the holder remains eligible to buy firearms. It may be revoked by the Superior Court upon a finding of ineligibility.

Violations of the provisions of most of the laws are subject to criminal penalties, which, in the interest of brevity, we have not included in this report. We have also not discussed provisions pertaining to high-capacity firearms.

HAWAII

Generally, anyone wishing to acquire a firearm, including a long gun, in Hawaii must obtain a permit from the county police chief (Hawaii Rev. Stat. § 134-2(a)). With minor exceptions, applicants must be at least age 21 (Hawaii Rev. Stat. § 134-2(d)).

Application Procedure

Applicants must complete an application, prescribed by the attorney general, in which they provide their name, gender, height, weight, address, date and place of birth, country of citizenship, social security number, alien or admission number, and mental health history information. Applicants must also submit a signed waiver with the application, giving the police chief access to any records that have a bearing on their mental health (Hawaii Rev. Stat. §§ 134-2(b), 134-2(c), 134-2(d)).

The police chief must fingerprint and photograph applicants, unless their photographs and fingerprints are already on file, and perform a NICS check on them (Hawaii Rev. Stat. § 134-2(e)). Also, public health care providers must disclose health information, including protected

health care information, on an individual's mental health history to any county police chief who requests this information, provided the applicant has signed a waiver permitting such release. The information must be used solely to evaluate an applicant's fitness to acquire or own a firearm (Hawaii Rev. Stat. § 134-3.5). Providers who disclose information for this purpose are immune from civil liability, provided they acted without malice (Hawaii Rev. Stat. § 134-18).

Permits

There is a 14-day waiting period for permits unless the applicant is a gun dealer or has a license to carry handguns or the firearm is registered under state law. The permit must be issued or denied before the 20th day from the application date (Hawaii Rev. Stat. 134-2(e)). The statutes do not explicitly specify the basis for issuing or denying permits.

The permit fee is whatever amount the Federal Bureau of Investigation charges for the fingerprint check in connection with the application (Hawaii Rev. Stat. § 134-2(i)).

The permit is valid for one year (Hawaii Rev. Stat. § 134-2(e)). The police chief or any court may revoke it for cause (Hawaii Rev. Stat. § 134-13).

The police chief must notify applicants denied a permit and may require them to voluntarily surrender any firearms they possess, sell them to a gun dealer, or transfer them to an eligible person. If the applicant fails to surrender or dispose of any such firearms, the police chief may seize them (Hawaii Rev. Stat. § 134-7.3).

ILLINOIS

With several exceptions, Illinois prohibits anyone from (1) acquiring or possessing long guns without a valid FOID card issued by the State Police or (2) knowingly selling a long gun to anyone who does not have a FOID card (430 Ill. Comp. Stat. 65/2(a)(1), 65/3). The law specifically allows municipalities to enact ordinances imposing greater restrictions than those imposed by state law (430 Ill. Comp. Stat. 65/13.1).

Application Procedure

FOID card applicants must complete an application and submit evidence of their eligibility to receive a FOID card to the State Police (430 Ill. Comp. Stat. 65/4). At the request of the State Police, applicants must sign a release waiving any right to confidentiality and requesting

disclosure to the State Police of limited mental health institution admission information, solely to determine whether they were institutionalized and disqualified from getting an FOID card (430 Ill. Comp. Stat. 65/4(a)(3)).

Eligibility Criteria

Applicants must be at least age 18.

The State Police is authorized to deny, revoke, or seize the FOID card of anyone:

1. under age 21 who has been convicted of a misdemeanor, other than a traffic offense, or adjudged delinquent;
2. under age 21 who does not have the written consent of a parent or guardian to acquire and possess firearms;
3. who is a convicted felon,
4. who is a drug addict;
5. confined to a mental institution within the past five years or adjudicated as a “mental defective”;
6. whose mental condition poses a clear and present danger to himself or herself or others.
7. who is intellectually disabled;
8. who makes false statements in the application;
9. subject to an order of protection prohibiting firearm possession;
10. convicted within the past five years of battery, assault, aggravated assault, violation of an order of protection (or a substantially similar offense in another jurisdiction) in which a firearm was used or possessed;
11. ever convicted of domestic battery, aggravated domestic battery, or a substantially similar offense in another jurisdiction;
12. adjudicated a delinquent minor for an act that would be a felony if committed by an adult;

13. prohibited from acquiring or possessing firearms;
14. subject to a petition alleging that he or she is a delinquent minor for committing an offense that would be a felony if committed by an adult;
15. who is an adult who had been adjudicated a delinquent minor for committing an offense that would be a felony if committed by an adult;
16. who is an illegal alien or an alien under a non-immigrant visa; and
17. with certain exceptions, who is a nonresident (430 Ill. Comp. Stat. 65/8).

Card Issuance and Appeals

The State Police must approve or deny a FOID application within 30 days after receiving it (430 Ill. Comp. Stat. §§ 65/5, 65/8). It must deny an application and revoke a FOID card if it finds that the applicant is subject to an order of protection or the card owner was subject to such an order when the card was issued (430 Ill. Comp. Stat. §§ 65/5, 65/8.2).

Aggrieved applicants may appeal to (1) the department or (2) to the circuit court if the denial or revocation was based on commission of specified crimes (430 Ill. Comp. Stat. § 65/10).

Fees

The FOID card cost \$10 and is valid for 10 years (430 Ill. Comp. Stat. 65/5, 65/7).

Reciprocity

Illinois residents with a valid FOID card who are not otherwise prohibited from obtaining, possessing, or using firearms may buy long guns in Indiana, Iowa, Kentucky, Missouri, or Wisconsin (430 Ill. Comp. Stat. § 65/3a(a)). Residents of these states and non-residents with a valid non-resident hunting license, who are age 18 or older and not prohibited by law from obtaining, possessing or using a firearm, may purchase or obtain long guns in Illinois (430 Ill. Comp. Stat. § 65/3a(b)).

MASSACHUSETTS

Massachusetts issues four types of credentials for gun owners and gun buyers: FID card, Class A firearm license, Class B firearm license, and “permit to purchase, rent or lease.” The credentials are issued by police chiefs or the State Police, where applicable (Mass. Gen. Laws ch. 140 § 129B(1), 131(d)).

With exceptions, anyone who owns or possesses a long gun in Massachusetts must have a FID card or license to carry handguns (Mass. Gen. Laws ch. 140 § 129C).

With exceptions, anyone buying long guns must have (1) a valid FID card, (2) a Class A or Class B license to carry firearms, or (3) valid proof of exempt status. With some exemptions, the law prohibits selling or otherwise transferring long guns to any nonexempt person who does not present the appropriate credential. It also prohibits selling long guns to anyone under age 18 (Mass. Gen. Laws ch. 140 § 131E(a)).

With some exceptions, anyone carrying long guns must have a license to carry firearms (Mass. Gen. Laws ch. 140 § 131(a) and (b)).

Eligibility Criteria for License or FID Card

Applicants for a license or FID card must state under penalty of perjury that they are not disqualified from obtaining the credentials (Mass. Gen. Laws ch. 140 § 129B(7), 131(g)). The licensing authority (i.e., police chief or State Police, where applicable) may issue a license to applicants if it appears that they are suitable to obtain a license and meet eligibility criteria in law (Mass. Gen. Laws ch. 140 § 131(d)). The licensing authority must issue the FID card so long as the applicant meets the eligibility criteria (Mass. Gen. Laws ch. 140 § 129B(1)). An applicant is disqualified from getting a license or FID card if he or she:

1. has ever been convicted or adjudicated a youthful offender or delinquent child for committing a felony or specified violent crimes;
2. has ever been convicted or adjudicated a youthful offender or delinquent child for committing a misdemeanor punishable by more than two years imprisonment;

3. has ever been convicted or adjudicated a youthful offender or delinquent child for violating any law pertaining to the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt, or transportation of weapons or ammunition that carries a prison term;
4. has ever been convicted or adjudicated a youthful offender or delinquent child for violating any law governing the use, possession, or sale of controlled substances;
5. has been confined to a mental institution for mental illness, unless a qualified physician attests that the applicant is not disabled by the illness from possessing firearms;
6. is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless deemed cured by a licensed physician, in which case he or she may apply after five years from the date of such confinement;
7. is under age 21 (for the license);
8. is under age 15 for the FID or is age 16 or 17 but less than age 18, unless a parent or guardian submits with the application a signed certificate granting permission;
9. is an alien; or
10. is subject to (a) a firearm suspension or surrender order, (b) a protection order, or (c) an outstanding arrest warrant (Mass. Gen. Laws ch. 140 §§ 129B, 131(d)).

In some FID cases, an applicant may have his or her eligibility restored if the conviction or release from probation or confinement occurred more than five years before the application (Mass. Gen. Laws 140 § 129B(1)).

Investigation of Applicants

As part of the application process, applicants must submit a completed application along with their fingerprints for a comprehensive background check. New applicants must also provide proof of successful completion of a basic firearm course (Mass. Gen. Laws ch. 140 § 131P). The State Police must conduct state and national criminal history record checks, including NICS checks, on all applicants. It must also check their mental health and probation records (Mass. Gen. Laws ch. 140 §§

131(e), 129B(2)). The licensing authority may not prescribe any other condition for issuing a FID card other than what is specified in law. The licensing authority must approve or deny the application not later than 40 days after it is submitted (Mass. Gen. Laws ch. 140 § 129B(3), 131(e)).

Suspension and Revocation of Credentials; Appeals

When any court issues a protective or similar order, it may order the (1) immediate suspension and surrender of a license or FID card and (2) defendant to surrender any firearms in his or her possession as authorized by law (Mass. Gen. Laws ch. 209A § 3B).

The licensing authority (1) must suspend or revoke the license or FID card of any owner who becomes ineligible or violates the conditions and restrictions placed on the credentials and (2) may revoke or suspend the license if it appears that the holder is no longer suitable to possess it (Mass. Gen. Laws ch. 140 §§ 129B(4), 131(f)). (It does not appear that FID cards are revocable on suitability grounds.)

When any FID card or license is revoked or suspended, the licensing authority must take possession of the credential. The licensee or card holder must surrender any firearms in his or her possession to the licensing authority, unless an appeal is pending. He or she has up to one year to transfer the firearms to a licensed gun dealer or other legally eligible person (Mass. Gen. Laws ch. 140 § 129D, 129B(4), 131(f)).

Anyone aggrieved by a license or FID card denial, revocation, or suspension may file a petition for judicial review within specified deadlines (Mass. Gen. Laws ch. 140 §§ 129B(5), 131(f)).

Validity of Credential; Fees

A FID card is generally valid for six years from the issue date (Mass. Gen. Laws ch. 140 § 129B(9)). A license is valid for not more than six years from the issue date.

The fee to get or renew a FID card or license is \$100 (\$25 for FID cards for minors under age 18) (Mass. Gen. Laws ch. 140 §§ 129B(9A), 131(i)). The renewal fees for both credentials are waived for people over age 70 (Mass. Gen. Laws ch. 140 §§ 131(i), 129B(10)).

NEW JERSEY

Except for gun dealers, anyone acquiring a long gun in New Jersey must (1) have a FPIC issued by the police chief (or State Police, where applicable) in the municipality where the applicant resides and (2) sign a written certification when he or she acquires the firearm that he or she is not legally barred from acquiring firearms (N.J. Stat. Ann. §§ 58-3(b), 58-3(d)).

Applicants must complete a FPIC application, giving their name, age, gender, birth date, and physical description; occupation; residence; and place of business; an extensive personal history; and other specified information (N.J. Stat. Ann. § 2C:58-3(e)). The law specifically prohibits the police from adding conditions or requirements to the form or content of the application other than those specified in law (N.J. Stat. Ann. § 2C:58-3(f)).

Applicants must submit the application along with two sets of their fingerprints (N.J. Admin. Code § 13:54-1.4(d)). They must waive confidentiality relating to institutional confinement information. They must undergo state and national criminal history record checks (N.J. Stat. Ann. § 2C:58-3(e)).

Eligibility Criteria

The police chief must issue the FPIC card so long as the applicant is of “good character and good repute” in the community where he or she lives and is not prohibited from getting the card based on eligibility criteria specified in law (N.J. Stat. Ann. § 2C:58-3(a), 3(b), 3(c)). The law prohibits issuing a card to anyone if doing so is not in the interest of the public health, safety, or welfare or to anyone who:

1. has been convicted of any crime that carries a prison term of more than six months;
2. has been convicted of a “disorderly persons offense” involving an act of domestic violence;
3. is drug dependent or a “habitual drunkard”;
4. is institutionalized for a mental disorder;
5. has ever been confined for a mental disorder, is an alcoholic, or suffers from a physical defect or disease that would make it

unsafe for him or her to handle firearms, unless the person provides a medical certificate showing that he or she is no longer suffering from such a disability;

6. refuses to waive statutory or other rights of confidentiality relating to institutional confinement;
7. knowingly falsifies any information on the FPIC application;
8. is under age 18;
9. is subject to a domestic restraining order prohibiting firearm possession;
10. had his or her firearm seized by law enforcement for a domestic violence offense and has not been returned; or
11. was adjudicated a juvenile delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or specified others (N.J. Stat. Ann. § 2C:58-3(c)).

The police chief must, unless good cause is shown, issue the FPIC card to residents within 30 days and non-residents within 45 days of receiving an application (N.J. Stat. Ann. § 2C:58-3(f)). Applicants denied a card may appeal to the Superior Court (N.J. Stat. Ann. § 2C: 58-3(d)).

The card cost \$5 (N.J. Stat. Ann § 2C:58-3(f), (i)). It allows unlimited purchases of long guns so long as, at the time of a purchase, the purchaser signs a written certification attesting to his or her eligibility to acquire firearms (N.J. Stat. Ann. § 2C:58-3(f), (i)).

The card is valid so long as the owner is permitted to possess firearms (N.J. Stat. Ann. § 2C: 58-3f). If the owner becomes ineligible, he or she must surrender the card within five days of the disqualifying event. The Superior Court may revoke the card, after hearing and notice, upon finding that the holder no longer qualifies for a card (N.J. Stat. Ann. § 2C:58-3(f)).

VR:ro